

AMENDED IN ASSEMBLY APRIL 26, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1371

Introduced by Assembly Member V. Manuel Pérez

February 18, 2011

An act to add and repeal Sections 12599.5 and 12635.5 of the Health and Safety Code, relating to fireworks, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1371, as amended, V. Manuel Pérez. Fireworks.

(1) Existing law authorizes the retail sale of safe and sane fireworks from June 28 to July 6, annually, pursuant to a license issued by the State Fire Marshal, unless otherwise prohibited or regulated by law or ordinance.

This bill would authorize, until January 2, ~~2018~~, 2017, the sale of certified safe and sane fireworks from 9 a.m. on December 26 to midnight of January 1 of the following year pursuant to a license issued by the State Fire Marshal, if authorized by a *charter city*, city, county, or city and county ordinance or resolution that may also restrict the hours of use of those fireworks. Since a violation of this provision or other existing related provisions in connection with the sale of those fireworks would be a misdemeanor, the bill would impose a state-mandated local program by creating new crimes.

~~(2) Existing law requires the State Fire Marshal to establish and collect the original and annual renewal fees for fireworks licenses that~~

are required by applicable laws, and to adopt regulations relating to the granting of permits by public agencies with local jurisdiction.

~~This bill would require, until January 1, 2018, the State Fire Marshal to establish and collect an additional fee on permits for dangerous fireworks issued to licensees in an amount necessary to enforce applicable laws with respect to training and education regarding dangerous fireworks. The fees would be deposited in the State Fire Marshal Dangerous Fireworks Training and Education Fund, which the bill would establish. Moneys in this fund would be continuously appropriated without regard to fiscal years to the State Fire Marshal for the purpose of training local fire and law enforcement agencies. The bill would authorize a local fire department, local fire protection agency, local law enforcement agency, or any other public agency authorized by statute to enforce the State Fire Marshal's regulations, to apply to the State Fire Marshal for a grant to develop and implement an education and training program for those purposes~~ *also authorize, until January 1, 2018, a charter city, city, county, or city and county that adopts an ordinance or resolution authorizing the sale of safe and sane fireworks to require each applicant receiving a permit to pay a fee to the charter city, city, county, or city and county of a pro rata portion of the costs incurred by the charter city, city, county, or city and county for, among other things, processing and issuing fireworks permits, and inspection of fireworks stands, and for public awareness and education campaigns regarding the safe and responsible use of safe and sane fireworks, as specified. The bill would specify that the pro rata portion of those costs shall be based on a percentage of the permittee's sales and use tax return for the applicable permit period, not to exceed 7% of the gross sales of the fireworks sold in the charter city, city, county, or city and county.*

~~(3)~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12599.5 is added to the Health and Safety
2 Code, to read:

3 12599.5. (a) Notwithstanding Sections 12599 and 12672, each
4 year from 2012 to ~~2017~~ 2016, inclusive, the State Fire Marshal
5 shall issue separate one-time retail licenses pursuant to this section
6 that shall authorize the retail sale of safe and sane fireworks within
7 this state only from 9 a.m. on December 26, of a year within 2012
8 to ~~2017~~ 2016, inclusive, to midnight of January 1 of the following
9 year, inclusive. A license issued pursuant to this section shall be
10 valid for only one seven-day period and shall expire at the end of
11 the period for which it is valid. All fireworks sold pursuant to a
12 license issued pursuant to this section shall have been certified as
13 safe and sane by the State Fire Marshal as of June of the year in
14 which the validity of the license commences. No other license
15 issued pursuant to this chapter shall authorize the sale of fireworks
16 during that period.

17 (b) No retail license shall be issued for the license period
18 authorized by this section unless the *charter city*, city, county, or
19 city and county having jurisdiction over the fixed location where
20 the fireworks would be sold adopts an ordinance or resolution
21 allowing that sale, and the application for that license is received
22 by the State Fire Marshal on or before December 15 of the year
23 in which the validity of the license is to commence. The ordinance
24 or resolution authorizing the sale of those fireworks may limit the
25 period of use of those fireworks to specified days and hours within
26 the period during which the sale is authorized by this section.

27 (c) This section shall become inoperative on January 2, ~~2018~~
28 2017, and, as of January 1, ~~2019~~ 2018, is repealed, unless a later
29 enacted statute, that is enacted before January 1, ~~2019~~ 2018, deletes
30 or extends the dates on which it becomes inoperative and is
31 repealed.

32 ~~SEC. 2. Section 12635.5 is added to the Health and Safety~~
33 ~~Code, to read:~~

34 ~~12635.5. (a) The State Fire Marshal Dangerous Fireworks~~
35 ~~Training and Education Fund is hereby established in the State~~
36 ~~Treasury. Notwithstanding Section 13340 of the Government Code,~~
37 ~~this fund is continuously appropriated without regard to fiscal~~
38 ~~years to the State Fire Marshal for the purpose of training local~~

1 ~~fire and law enforcement agencies regarding the identification,~~
2 ~~risks, dangers, and proper disposal associated with dangerous~~
3 ~~fireworks seized pursuant to this part.~~

4 ~~(b) Pursuant to Section 12630, the State Fire Marshal shall~~
5 ~~establish and collect an additional fee on permits for dangerous~~
6 ~~fireworks issued pursuant to Section 12640 in an amount necessary~~
7 ~~to enforce this part with respect to training and education regarding~~
8 ~~dangerous fireworks. Notwithstanding Section 12635, these fees~~
9 ~~shall be deposited in the State Fire Marshal Dangerous Fireworks~~
10 ~~Training and Education Fund.~~

11 ~~(c) A local fire department, a local fire protection agency, a~~
12 ~~local law enforcement agency, or any other public agency~~
13 ~~authorized by statute to enforce the State Fire Marshal's regulations~~
14 ~~may apply to the State Fire Marshal for a grant for its costs in~~
15 ~~developing or implementing an education and training program~~
16 ~~pursuant to this section.~~

17 ~~(d) This section shall remain in effect only until January 1, 2018,~~
18 ~~and as of that date is repealed, unless a later enacted statute, that~~
19 ~~is enacted before January 1, 2018, deletes or extends that date.~~

20 *SEC. 2. Section 12635.5 is added to the Health and Safety*
21 *Code, to read:*

22 *12635.5. (a) A charter city, city, county, or city and county*
23 *that adopts an ordinance or resolution pursuant to Section 12599*
24 *or 12599.5 may, through adoption of an ordinance or resolution*
25 *by the governing body, require each applicant receiving a permit*
26 *to pay a fee, as described in paragraph (3) of subdivision (e) of*
27 *Section 1 of Article XIII C of the California Constitution, to the*
28 *charter city, city, county, or city and county of a pro rata portion*
29 *of the costs the charter city, city, county, or city and county incurs*
30 *related to any of the following:*

31 *(1) Processing and issuing permits.*

32 *(2) Inspection of fireworks stands.*

33 *(3) Public education and awareness campaigns regarding the*
34 *safe and responsible use of safe and sane fireworks, and the*
35 *dangers and risks posed by the use of illegal fireworks.*

36 *(4) Enforcing the provisions of the code of the charter city, city,*
37 *county, or city and county with respect to the sale and use of safe*
38 *and sane fireworks, including extra personnel time, and cleanup*
39 *of the fireworks trash and debris. "Extra personnel time" shall*
40 *be defined as employee or contracted employee time that the*

1 *charter city, city, county, or city and county would not otherwise*
2 *incur but for the sale and use of safe and sane fireworks.*

3 *(b) The pro rata share of the costs shall be determined using*
4 *gross sales as shown on each permittee's sales and use tax return*
5 *for the applicable period. The pro rata share of costs shall not*
6 *exceed 7 percent of the gross sales of the fireworks sold in the*
7 *charter city, city, county, or city and county during the applicable*
8 *period.*

9 *(c) This section shall remain in effect only until January 1, 2018,*
10 *and as of that date is repealed, unless a later enacted statute, that*
11 *is enacted before January 1, 2018, deletes or extends that date.*

12 SEC. 3. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.